

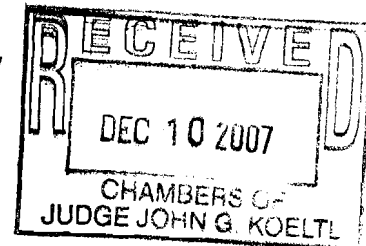
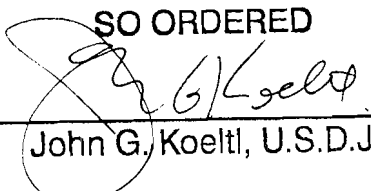
U.S. Department of Justice

United States Attorney
Southern District of New York

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED 12/11/07
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86 Chambers Street
New York, New York 10007

December 10, 2007

BY FACSIMILEHonorable John G. Koeltl
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007APPLICATION GRANTED
SO ORDERED
John G. Koeltl, U.S.D.J. 12/10/07Re: Aguilar v. Immigrations and Customs Enforcement, et al.
07 Civ 8224 (JGK) (FM)

Dear Judge Koeltl:

We write respectfully to request that the three individual-capacity defendants, Christopher Shanahan, Peter J. Smith, and Joseph A. Palmese ("defendants"), have until January 18, 2008, to serve their answers to plaintiffs' amended complaint (the "complaint"). January 18 is the due date for plaintiffs' opposition to the Government's partial motion to dismiss.

Plaintiffs attempted to serve defendants by leaving a copy of the complaint, for Shanahan on October 9, 2007, and for Smith and Palmese on October 17, 2007, with Immigration and Customs Enforcement's Office of Chief Counsel at 26 Federal Plaza in Manhattan. While defendants do not believe that that delivery constituted proper service under Rule 4 of the Federal Rules of Civil Procedure, if the attempted service was effective, Shanahan's answer would be due today and the answers for Smith and Palmese would be due on December 17, 2007. While defendants are willing not to contest service in the interest of advancing the litigation, they are in need of additional time to prepare their answers. Defendants have requested plaintiffs' consent to the proposed January 18 deadline, but as of this writing we have not received a response.

There are several reasons defendants are seeking until January 18 to serve their answer. The complaint runs 50 pages and 344 paragraphs, many of which contain detailed factual allegations about plaintiffs' claimed encounters with ICE agents during the nine home entries at issue. Responding to such allegations will require a time-consuming review of the complaint with defendants and other ICE employees with knowledge of the particular incidents. At the same time, until the end of last week, Government counsel were occupied full-time preparing the Government's partial motion to dismiss the complaint. Finally, this Office did not receive authority to represent the individual defendants until two weeks ago. Plaintiffs will not be prejudiced by a grant of the requested extension; an answer requires no response from plaintiffs,

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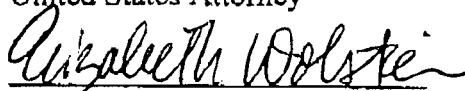
and the deadline for defendants' answer does not affect any other existing deadlines.

Thank you for your consideration of this request.

Respectfully submitted,

MICHAEL J. GARCIA
United States Attorney

By:



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